

# **Talibanization in Pakistan: Context and Analysis of Historical and Political Marginalization in the Federally Administrated Tribal Areas (FATA)**

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## **1. Introduction**

Since 9/11, the Federally Administered Tribal Areas (FATA) have become an epicentre of Talibanization and Pakistan has been gripped by an internal war with the Pakistani Taliban (known as Tehreek-e-Taliban or the TTP) that has killed thousands of civilians, security personnel and in millions displaced internally from FATA to other parts of Pakistan ever since (Nawaz, 2009, p. 12). The TTP has also threatened repeatedly and publicly to attack the Pakistani homeland, and consistently claimed responsibility for every suicide and bomb attack in Pakistan. To that end, the TTP has attacked schools, colleges, mosques, government offices, training centers, and other commons frequented by civilians. For example, one of the deadliest incidents during the TTP insurgency was the Peshawar Army Public School massacre on 16 December 2014. The attack alone killed more than 145 people including about 132 children (Saifi & Botelho, 2014).

However, the underlying causes of the rise of Tribalization have not fully addressed yet. Therefore, the prevailing situation in FATA warrants an in-depth analysis of the problem. This study seeks to fill this knowledge gap by adopting a specific theoretical approach (i.e. Relative Deprivation Theory, Social Exclusion Theory) and a mixed qualitative-quantitative research principle. This study attempts to critically scrutinize the nexus between long-lasting marginalization and the ongoing Talibanization in the tribal belt of Pakistan. By testifying a hypothetical notion that ‘historical and political marginalization caused Talibanization’ in FATA, this study attempts to answer the main issues of this research that how did the history of neglect in the colonial and post-independence periods contribute to alienation of FATA? And, how it offered breed to antagonism against the long lasting policies of marginalization in FATA?

## **2. Literature Review**

Extant literature on the issue can be classified into three broad groups; first, studies that misjudge the reality and the key underlying causes behind the Talibanization and erroneously attributed proximate factors or risk factors as the main causes of the rising Talibanization in the post-9/11. Broadly, the first group of studies offer two miscalculated justifications as major reasons to rationalize the rise of Talibanization in the post-9/11. One, it attributes the Talibanization in FATA as a product of Afghan-Soviet War (1979-1989). Two, it has tended to focus on assessing the current disparaging and destructive condition of FATA as a product of the notorious “Global War on Terrorism” and its consequences in the form of the Afghan War and the rising socio-political unrest in the region (e.g. Cassidy, 2012; Nawaz, 2009; Martinage, 2008 etc.).

While studies in the second group of extant literature have identified the causes of Talibanization with greater accuracy than the first group, they fall short in providing empirical proof and robust analysis. Instead, these studies have focused on deteriorating socio-economic impact as an outcome of current Talibanization; however, they have overlooked or provided insufficient factual evidence of historical and political structure of FATA prior to the rise of Talibanization in FATA (e.g. Zahra, 2014; Khan, 2014 etc.). The third group of existing scholastic work provides substantial evidence of the underlying causes of Talibanization in certain cases around the world in general. To them, in majority of the cases, the underlying causes are “Horizontal Inequalities” (e.g. Stewart, 2000; Ostby, 2008; Cederman et al., 2013 etc.), and their findings and analyses give a reasonable justification to this study to focus on the horizontal disparities nexus to the current rising of Talibanization in FATA.

## **3. The Politics of Marginalization - Rationale an Imperial Legacy (1849-1947)**

The Pashtun populated areas that today makeup FATA alongside the British-Indian frontier and the border of Afghanistan were once part of the battleground, on which is commonly known as “the Great Game” of political and diplomatic confrontation between the Russian and the British Empires in the late-nineteenth and mid-twentieth centuries (Hopkirk, 2001). Over the period, the British adopted various strategies for instance ‘closed border strategy’, ‘frontward strategy’, ‘burn and scuttle policy’, ‘carrot and stick strategy’ and ‘divide and rule strategy’ to deal with the inhabitants of FATA. Between 1871 and 1901, the British rulers enacted a series of oppressive rules grounded on the notion of “collective territorial responsibility” for solving disputes under a local system of Jirga (Iqbal, 2011, p. 85).

In order to run the system effectively, British reintroduced the Political Agent(s) (PAs) system. In the meantime, a Maliki (local chief) system was also introduced with enabling the colonial government to practice control over the regional tribes. The core purpose of all those developments to protect the allegiances of powerful components in the territory and enable the colonial government to control over the tribes (Howell, 1931, pp. 11-28). To attain the subservience of the tribal Pashtuns, British used every available strategy or tool regardless of any respect for humanity, for instance, terrorizing, duplicity, temptation, and bribery. The British embraced the strategy of “might is right” purely based on oppressive military rule to progress and endorse their imperial enterprise (Andrews, 1937). The miseries of the tribal belt were not just caused under the British colonial rule; however, the colonial legacy of injustice continued with insignificant alternations by the post-independence administrations of Pakistan since its inception in 1947.

#### **4. The Politics of Exclusion - Under the National Governments (1947- Present)**

On July 6 1947, FATA joined Pakistan, and the creator of Pakistan Mr. Muhammad Ali Jinnah formed the Ministry of States and Frontier Regions (SAFRON) and himself assumed the charge of FATA (Spain, 1963). It is widely believed that Mr. Jinnah gave a grave guarantee to the tribes of FATA not to interfere in their internal issues in return for joining Pakistan. In fact, it was ensured that the people of FATA would have equal citizenship rights in as other Pakistani there would not be any interference with tribal autonomy yet integrates FATA into Pakistan. Jinnah's aspirations were vibrant for administration the tribal areas and its resilient Pashtun tribes.

Soon after Jinnah's death in 1948, the subsequent Pakistani governments did not follow his vision and ambitions, and ruling elites did not acquire any positive change in the state strategy with respect to tribal territories, and the colonial structure of governance subsequently stayed in place as existing conditions and inheritance of the British Empire (Shah, 2012). In consequence, the subsequent government's FATA policies persisted event focused and conflicting with the necessities of the general population. By doing so, it allowed a faulty governing system of tribal autonomy in which Islamabad could still uphold nominal legal jurisdiction (Johnson & Mason, 2008). Therefore, the root of the current Talibanization is that the fundamental administrative bodies such as police, judiciary, and public services are not available in FATA.

#### **5. A Dysfunctional and Abusive Administrative Mechanism**

The administrative system of FATA is a century old. Virtually it is an ungoverned area and the government's writ is absent by design. In other words, it is governed by a colonial-era Frontier Crimes Regulation 1901 (FCR-1901), which gave extensive powers to the federally appointed PAs in tribal agencies. In the absence of judicial system, these handpicked PAs and Maliks and other tribal elites under the Jirga system hear criminal and civil cases of the tribal and make decisions. In reality, the tribal areas are not administrated at all, and the Maliks make no difference. On the other hand, because of the unrestricted discretionary power set under the control of the Jirga, these Maliks often violets human rights. The common people are despondent by unjust oppressive treatment by Maliks in the absence of any legitimate and remedial system to address people grievances. Overall, broken and oppressive administration has made FATA defenseless against Talibanization.

#### **6. The Uncrowned Kings-Political Agents (PAs)**

The PA is responsible for dealing with internal issues of the tribes and utilizes the financial assets, and controlling inter-tribal trade among agencies or with urbanized territories of Pakistan (Haider, 2009, pp. 5-7). Being central and provincially designated the PAs lookout the administration of the concerned agency with ultimate executive power. A PA is the head and simultaneously acts as a magistrate in an agency; he has a sole authority to lead Jirga and anytime he can proclaim any choice made by a Jirga as invalid and void. He can force any sort of taxes without any guidance from anyone. He can likewise spend any amount of funds with no audit jurisdiction (Khan & Wazir, 2014, pp. 27-28).

On the administrative level, a PA is assumed to be the decisive authority in a tribal agency. In the present administrative structure, the PA holds the executive, legislative, and judicial functions in an all-powerful authority. This centralization of power to PAs is directed by the FCR-1901, known as the draconian law, has brought about a colossal political and legitimate vacuum which prompted diverse issues as everything in FATA got into mess and the area turned into an authoritatively segregated region (Rumi, 2012). The prevailing PA administrative set up has been proved ineffective, highly corrupt, and enormously full of nepotism. Unsurprisingly, it does not address the inhabitants of FATA's socio-political and economic issues (Nawaz, 2009, pp. 19-20).

#### **7. Special Constitutional and Legal Status of FATA**

Persevering the British legacy, all Pakistani Constitutions ratified the tribal region an extraordinary status with prejudicial authoritative mechanism. Under the third and most current Constitution (1973) of Pakistan, according to its Article 1, FATA is incorporated among the domains of Pakistan (Constitution of Pakistan, 1973, Article 1). However, it does not grant some fundamental civic rights to the general population of the tribal territories. The following listed fundamental human rights are unavailable to the inhabitants of FATA, thus, it can be realized that how FATA and its inhabitants have been treated by discriminatory legal practices in this modern age.

- No Jurisdiction of National Parliament and its Secretariat in FATA
- No Jurisdiction of Provincial Assembly and its Secretariat in FATA
- No Jurisdiction of Provincial (Peshawar) High Court in FATA
- No Jurisdiction of Islamabad High Court in FATA
- No Jurisdiction of the Supreme Court in FATA
- No Jurisdiction of National Accountability Bureau in FATA

#### **8. The Judicial System – (Justice Delayed and Denied)**

Since 1947, the Constitution(s) of Pakistan have never been totally executed in FATA, rather the region had been regulated under the FCR-1901, which is neither a constitution nor a justified apparatus to adequately substitute the

Constitution(s) of Pakistan (Wazir & Khan, 2014). The judicial system of FATA is a hybrid of British devised legal framework of the FCR-1901 that blends with local customs and norms (i.e. Pashtunwali) of the tribal areas with executive powers of the President of Pakistan (Tanguay-Renaud, 2002). 113 years old judicial framework of FATA oversee around five million people of FATA, which is 3% of the total population of Pakistan. In the absence of courts in FATA, mainly disputes are resolved locally, in the case of serious matters a grand Jirga is organized with inclusion of Maliks, tribal leaders, obviously the PAs, sometime tribal members of upper and lower houses of national legislature, and infrequently representatives from other agencies and settled areas (ICG, 2004).

There are countless victims of such cases, who were inhumanely detained for crimes, which they did not commit even. These flaws in the judicial system of FATA have prompted the foundation of an inevitably prominent option “shadow justice” systems such as Taliban-style Sharia courts (Baczko, 2014). As it has been proved that the Pakistan has neglected to give them an acceptable judicial system to deal business, property and family disputes of the people in FATA. Therefore, this gap was filled by the militants. Many respondents of this study witnessed that the TTP after gaining the control of an area in FATA, their first step was to establish a judicial system to provide rapid and cheap justice. In this way, the TTP built up Sharia courts in Bajaur and Mohmand agencies of FATA with many tribesmen supposedly visited them. These Sharia courts, nonetheless, work under the TTP self-interpreted Sharia standards. The courts were created in the government girls’ schools in the tribal region, in deed, the courts’ verdicts were harsh penalties, including public executions and amputations (Khan, 2008; Haider, 2009).

## **9. A Draconian Law-Frontier Crimes Regulation**

Essentially, the British designed the FCR-1901 not as a law that a civil government administers on its citizens but was a kind of a martial law by a ruling power subjugating ‘discipline’ the people of FATA. The sole purpose of this law was to control and suppress crimes in the tribal areas and not to provide justice. In other words, the FCR-1901 uniquely designed to suppress crims by inflicting the most possible horrendous punishment. The provision of justice is neither its core nor objective (Ali, 2000). It does not provide for due process of law, denying to the tribes the right to legal representation or appeal. The most offensive part of his law is the idea of collective punishment, where acts of an individual could lead to collective punishment for the entire tribe. This was classic British bureaucracy; putting the natives in their place (Hamdani, 2015).

The disreputable FCR-1901 has been described as “draconian,” a “black law,” “unethical” and “un-Islamic,” and criticized at all domestic and international human right forums (Haider, 2009; Rumi, 2012; Human Rights Commission of Pakistan [HRCP], 2005). The draconian nature of the FCR-1901 deprives the tribes of social, political, and economic rights recognized under the International Human Rights laws and the protection of courts (Chaudhry, 2011). The FCR-1901 comprises some special set of laws, which are controversial and entirely inhumane. Particularly, its articles 8, 11, 13, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, importantly 40, 45, 51 and 55 violate the basic human rights and refute the people’s equal rights relating to all fundament rights available to the citizens of Pakistan (Khan & Khan, 2012).

## **10. Negation of Fundamental Equal Rights to the Citizens of FATA**

The FATA despite being integral part of Pakistan, the people of FATA are unequal in all respects. For them, there is no conventional legal system available. In reality, liberty is meaningless in FATA aside from statelessness, absence of accountability and the principle of might is right prevails (Wazir, 2007). The Constitution supposed to extends the same rights to FATA and its inhabitants. However, all the superior courts of Pakistan, which also guarantee the fundamental rights do not have jurisdiction in FATA and the Article 247 its Clause 7 of the Constitution refutes such protection, stating:

*“Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless [Majlis-e-Shoora (Parliament of Pakistan)] by laws otherwise provide”* (Constitution of Pakistan, 1973, Article 247, Clause, 7, p. 146).

## **11. No Political Representation for the People of FATA**

A long-standing democratic deficit and the socio-political marginalization in FATA have formed a constant administrative and political vacuum to be filled by the TTP militants. It has been decades, deliberate structural negligence by the central governments have resulted an unending rise of Talibanization in FATA. Constantly, the people of FATA have been excluded from their fundamental right of political representation. Under the Constitution of Pakistan, political parties are not allowed to have an official presence in FATA (Samdani, 2011). Under the Limited Franchise system, the common tribal masses were forbidden to vote for their representatives. Thus, the common tribesmen were not allowed to vote in the 1970, 1977, 1985, 1988, 1990, 1992, and 1994 general elections due to the Limited Franchise system in FATA (Government of Pakistan, 2011). The absence of political activities in FATA made a vacuum that gives chances to the persuasive anti-state components to misuse the situation for their agendas.

## **12. Conclusion**

The study found that the inhabitants of FATA have been victimized socio-politically under both colonial and the post-independence administrations. It proves positive the prescribed hypothesis that the “historical and political exclusion caused

Talibanization” in FATA. In other words, the current Talibanization are the effects of a long-lasting historical and political alienation of the tribal areas. It also verified that the colonial British and Pakistani political administrations have neglected and mistreated the tribal region for their own vested interests. Consequently, the study demonstrates that the enduring discriminative historical and socio-political structure by the colonial and post-colonial administrations has engraved an enduring resentment and feelings of distrust among the tribesmen. In other words, the magma of current militant volcanic eruption has been stockpiled for more than a century, thus, these socio-political and economic grievances and marginalization turned into a radical violent eruption after 9/11 in FATA. Therefore, the present conflict in FATA is the refusal of its people’s fundamentals human rights. In addition, the current Talibanization and violence are causes of continuing discriminative policies of political marginalization, economic deprivation, and socio-cultural indoctrination.

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